

INSPECTIONS AND APPEALS DEPARTMENT[481]

Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code sections 10A.104, 137D.2 and 137F.2, the Department of Inspections and Appeals hereby gives Notice of Intended Action to amend Chapter 34, “Home Food Establishments,” Iowa Administrative Code.

These amendments implement 2016 Iowa Acts, chapter 1086, an Act relating to the licensure of home food establishments. Pursuant to the legislation, home food establishments are now called home bakeries.

The Department does not believe that the proposed amendments impose any financial hardship on any regulated entity, body, or individual.

Any interested person may make written suggestions or comments on the proposed amendments on or before May 30, 2017. Such written materials should be addressed to the Director, Department of Inspections and Appeals, Lucas State Office Building, 321 East 12th Street, Des Moines, Iowa 50319-0083; faxed to (515)242-6863; or e-mailed to david.werning@dia.iowa.gov.

After analysis and review of this rule making, no impact on jobs has been found.

These amendments are intended to implement Iowa Code sections 10A.104 and 137F.2.

The following amendments are proposed.

ITEM 1. Amend **481—Chapter 34**, title, as follows:

HOME FOOD ESTABLISHMENTS BAKERIES

ITEM 2. Amend subrule 34.1(4) as follows:

34.1(4) All potentially hazardous food must be refrigerated at 41°F or less, ~~or held at 135°F or higher,~~ to control bacterial growth. ~~Potentially hazardous foods that have been cooked and then refrigerated shall be reheated rapidly to an internal temperature of 165°F or higher before being placed in hot food storage holding units. Food warmers and other hot food holding units shall not be used for the reheating of potentially hazardous foods.~~

ITEM 3. Amend rule 481—34.2(137D) as follows:

481—34.2(137D) Enforcement.

34.2(1) All ~~critical~~ violations shall be corrected within ~~10~~ 90 days ~~of an inspection~~. ~~Within 15 days,~~ the The license holder shall make a written report to the regulatory authority, stating the action taken to correct the ~~critical~~ violation. ~~All noncritical violations shall be corrected within the time period required by the inspection, but in all cases the violation shall be corrected within 90 days of the routine inspection.~~

34.2(2) Violation of these rules or any provision of Iowa Code chapter 137D is a simple misdemeanor. The department may employ various remedies if violations are discovered.

- a. A license may be revoked.
- b. An injunction may be sought.
- c. A case may be referred to a county attorney for criminal prosecution.
- d. Foods may be embargoed or a stop-sale order may be issued.

ITEM 4. Amend rule 481—34.4(137D) as follows:

481—34.4(137D) Annual gross sales. Annual gross sales shall not exceed ~~\$20,000~~ \$35,000. The license holder shall maintain a record of sales of food licensed under Iowa Code section 137D.1(3). The record shall be available to the regulatory authority when requested.

ITEM 5. Amend paragraph **34.5(1)“a”** as follows:

a. Conducts an activity constituting a criminal offense in the licensed home ~~food establishment~~ bakery; and

ITEM 6. Amend paragraph **34.5(2)“a”** as follows:

a. Conducts an activity constituting a criminal offense in the licensed home ~~food establishment~~ bakery; and